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## BEFORE THE SURFACE TRANSPORTATION BOARD

CANEXUS CHEMICALS CANADA L.P.,	)
Complainant,	)
v.	) Docket No. FD 35524
BNSF RAILWAY COMPANY,	)
Defendant.	. )

## OPENING EVIDENCE AND ARGUMENT OF CANADIAN PACIFIC RAILWAY

Pursuant to the Decision served in the above-captioned proceeding on November 1, 2011 (the "November 1 Decision"), Canadian Pacific Railway Company ("CP") submits this Opening Evidence and Argument.

As stated in its prior submissions, CP takes no position with respect to the merits of the dispute among Canexus Chemicals Canada L.P. ("Canexus"), BNSF Railway Company ("BNSF") and Union Pacific Railroad Company ("UP") regarding the appropriate U.S. interchange point for Canexus' chlorine shipments. Rather, CP's sole interest in this proceeding is to clarify the record with respect to the current availability of an alternative CP rate and route via Kansas City for the subject traffic, and to address the issue of the Board's authority to enforce the common carrier obligation set forth at 49 U.S.C. § 11101(a) extraterritorially.

<sup>&</sup>lt;sup>1</sup> See CP Reply to BNSF Petition to Vacate the Emergency Service Order and Establish an Expedited Procedural Schedule (filed October 19, 2011) ("CP Reply to BNSF Petition") at 1; Letter dated October 5, 2011 from Terence M. Hynes to Cynthia T. Brown (the "CP Letter") at 1.

CP hereby incorporates by reference the CP Reply to BNSF Petition and the CP Letter, and respectfully requests that the Board treat those submissions as CP's Opening Evidence and Argument in this proceeding.

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Respectfully submitted,

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Attorneys for Canadian Pacific Railway Company

Dated: November 3, 2011

## CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Opening Evidence and Argument of Canadian Pacific Railway Company to be served by email and by first class mail, postage prepaid, this 3rd day of November 2011 on the following:

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